

Senate File 532 - Introduced

SENATE FILE 532

BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO SSB 1209)

A BILL FOR

1 An Act relating to flood mitigation by establishing a flood
2 mitigation program, establishing a flood mitigation board,
3 authorizing the use of certain sales tax revenue and
4 other financial assistance for flood mitigation projects,
5 establishing a flood mitigation fund, authorizing the
6 issuance of bonds for certain flood mitigation projects, and
7 including effective date provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29C.8, subsection 3, Code 2011, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *h.* Carry out duties related to the flood
4 mitigation program and the flood mitigation board under chapter
5 418.

6 Sec. 2. Section 331.430, subsection 2, Code 2011, is amended
7 by adding the following new paragraph:

8 NEW PARAGRAPH. *d.* Payments required to be made from the
9 debt service fund to a flood project fund under section 418.14,
10 subsection 5.

11 Sec. 3. Section 384.4, subsection 1, Code 2011, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. *e.* Payments required to be made from the
14 debt service fund to a flood project fund under section 418.14,
15 subsection 5.

16 Sec. 4. NEW SECTION. **418.1 Definitions.**

17 For purposes of this chapter, unless the context otherwise
18 requires:

19 1. "*Base year*" means the fiscal year ending during the
20 calendar year in which the governmental entity's project is
21 approved by the board under section 418.9.

22 2. "*Board*" means the flood mitigation board as created in
23 section 418.5.

24 3. "*Division*" means the homeland security and emergency
25 management division of the department of public defense.

26 4. "*Governmental entity*" means any of the following:

27 *a.* A county.

28 *b.* A city.

29 *c.* A joint board or other legal or administrative entity
30 established or designated in an agreement pursuant to chapter
31 28E between a county and one or more cities located within the
32 county.

33 5. "*Project*" means the construction and reconstruction
34 of levees, embankments, impounding reservoirs, or conduits
35 that are necessary for the protection of property from the

1 effects of floodwaters and may include the deepening, widening,
2 alteration, change, diversion, or other improvement of
3 watercourses if necessary for the protection of such property
4 from the effects of floodwaters.

5 6. "*Retail establishment*" means a business operated by a
6 retailer as defined in section 423.1.

7 7. "*Sales tax*" means the sales and services tax imposed
8 pursuant to section 423.2.

9 **Sec. 5. NEW SECTION. 418.4 Projects.**

10 1. A governmental entity may use the moneys in its flood
11 project fund established pursuant to section 418.13 to fund
12 projects that meet the requirements of this section.

13 2. Prior to undertaking a project, the governmental entity
14 shall adopt a project plan. The project plan shall include
15 a detailed description of the project, clearly state the
16 cost of the project and the amount of debt to be incurred
17 for purposes of funding the project, and include a detailed
18 description of all funding sources for the project, including
19 information relating to either the proposed use of financial
20 assistance from the flood mitigation fund under section 418.10
21 or the proposed use of sales tax increment revenues received
22 under section 418.12. The project plan shall also include
23 information related to the approval criteria in section 418.9,
24 subsection 2.

25 3. A governmental entity shall not undertake a project under
26 this chapter unless all of the following conditions are met:

27 a. Bidding for the project has been completed.

28 b. The project has been approved to receive financial
29 assistance in an amount equal to at least twenty percent of
30 the total project cost or thirty million dollars, whichever
31 is less, under the federal Water Resources Development Act or
32 other federal program providing assistance specifically for
33 hazard mitigation.

34 c. The project plan has been approved by the board under
35 section 418.9.

1 *d.* Following approval of the project plan by the board,
2 the governmental entity has adopted a resolution authorizing
3 the use of sales tax increment revenue from the governmental
4 entity's flood project fund, if sales tax increment revenue
5 was approved by the board as a funding source for the project.
6 Within ten days of adoption, the governmental entity shall
7 provide a copy of the resolution to the department of revenue.

8 4. A governmental entity shall not seek approval from the
9 board for a project if the governmental entity previously
10 had a project approved pursuant to section 418.9 or if the
11 governmental entity previously was part of a governmental
12 entity as defined in section 418.1, subsection 4, paragraph "c",
13 that had a project approved pursuant to section 418.9.

14 4A. If a project is eligible for state financial assistance
15 under section 29C.6, subsection 17, such project is ineligible
16 for approval by the board under this chapter.

17 5. Following approval of a project under section 418.9, the
18 governmental entity shall on or before December 15 of each year
19 submit a report to the board detailing all of the following:

20 *a.* The current status of the project.

21 *b.* Total expenditures and the types of expenditures that
22 have been made related to the project.

23 *c.* The amount of the total project cost remaining as of the
24 date the report is submitted.

25 *d.* The amounts, types, and sources of funding being used.

26 *e.* The amount of bonds issued or other indebtedness incurred
27 for the project, including information related to the rate of
28 interest, length of term, costs of issuance, and net proceeds.
29 The report shall also include the amounts and types of moneys
30 used for payment of such bonds or indebtedness.

31 6. A governmental entity may contract with a council of
32 governments to perform any duty or power authorized under this
33 chapter or for the completion of a project.

34 Sec. 6. NEW SECTION. 418.5 Flood mitigation board.

35 1. The flood mitigation board is established consisting of

1 nine voting members and four ex officio, nonvoting members, and
2 is located for administrative purposes within the division.
3 The administrator of the division shall provide office space,
4 staff assistance, and necessary supplies and equipment for
5 the board. The administrator shall budget funds to pay the
6 necessary expenses of the board. In performing its functions,
7 the board is performing a public function on behalf of the
8 state and is a public instrumentality of the state.

9 2. The voting membership of the board shall include all of
10 the following:

11 a. Four members of the general public. Each general public
12 member of the board shall have demonstrable experience or
13 expertise in the field of natural disaster or flood mitigation.

14 b. The director of the department of natural resources or
15 the director's designee.

16 c. The secretary of agriculture or the secretary's designee.

17 d. The treasurer of state or the treasurer's designee.

18 e. The administrator of the division or the administrator's
19 designee.

20 f. The executive director of the Iowa finance authority or
21 the executive director's designee.

22 3. The general public members shall be appointed by
23 the governor, subject to confirmation by the senate. The
24 appointments shall comply with sections 69.16 and 69.16A.

25 4. The chairperson and vice chairperson of the board shall
26 be designated by the governor from the board members listed
27 in subsection 2. In case of the absence or disability of the
28 chairperson and vice chairperson, the members of the board
29 shall elect a temporary chairperson by a majority vote of those
30 members who are present and voting.

31 5. The members appointed under subsection 2, paragraph
32 "a", shall be appointed to three-year staggered terms and the
33 terms shall commence and end as provided by section 69.19. If
34 a vacancy occurs, a successor shall be appointed to serve the
35 unexpired term. A successor shall be appointed in the same

1 manner and subject to the same qualifications as the original
2 appointment.

3 6. The board's ex officio membership shall include four
4 members of the general assembly with one each appointed by
5 the majority leader of the senate, the minority leader of the
6 senate, the speaker of the house of representatives, and the
7 minority leader of the house of representatives. A legislative
8 member serves for a term as provided in section 69.16B in an ex
9 officio, nonvoting capacity and is eligible for per diem and
10 expenses as provided in section 2.10.

11 7. A majority of the board constitutes a quorum.

12 Sec. 7. NEW SECTION. **418.6 Expenses of board members.**

13 The voting members of the board are entitled to receive
14 reimbursement for actual expenses incurred while engaged in the
15 performance of official duties. A member of the board is not
16 eligible to receive the additional expense allowance provided
17 in section 7E.6, subsection 2.

18 Sec. 8. NEW SECTION. **418.7 Division duties.**

19 The division, subject to approval by the board, shall
20 adopt administrative rules pursuant to chapter 17A necessary
21 to administer the flood mitigation program. The division
22 shall provide the board with assistance in implementing
23 administrative functions and providing technical assistance and
24 application assistance to applicants under the program.

25 Sec. 9. NEW SECTION. **418.8 Flood mitigation program.**

26 1. The board shall establish and the division, subject
27 to direction and approval by the board, shall administer a
28 flood mitigation program to assist governmental entities
29 in undertaking projects approved under this chapter. The
30 flood mitigation program shall include projects approved
31 by the board to utilize either financial assistance from
32 the flood mitigation fund created under section 418.10 or
33 sales tax revenues remitted to the governmental entity under
34 section 418.12. A governmental entity shall not be approved
35 by the board to utilize both financial assistance from the

1 flood mitigation fund and sales tax revenues remitted to the
2 governmental entity.

3 2. The board shall, by rules adopted under section
4 418.7, prescribe application instructions, forms, and other
5 requirements deemed necessary to operate the flood mitigation
6 program.

7 3. The board may contract with or otherwise consult with the
8 Iowa flood center, established under section 466C.1, to assist
9 the board in administering the flood mitigation program.

10 4. The board shall submit a written report to the governor
11 and the general assembly on or before January 15 of each year.
12 The report shall include information relating to all projects
13 approved by the board for inclusion in the flood mitigation
14 program, the status of such projects, summaries of each report
15 submitted to the board under section 418.4, subsection 5,
16 information relating to the types of funding being used for
17 each approved project, including all indebtedness incurred by
18 the applicable governmental entities, and any recommendations
19 for legislative action to modify the provisions of this
20 chapter.

21 Sec. 10. NEW SECTION. 418.9 Project application review.

22 1. a. A governmental entity shall submit an application
23 to the board for approval of a project plan. The board shall
24 not approve a project for inclusion in the program if the
25 application is submitted after January 1, 2016.

26 b. The application shall specify whether the governmental
27 entity is requesting financial assistance from the flood
28 mitigation fund or approval for the use of sales tax revenues.
29 Applications for financial assistance from the flood mitigation
30 fund shall describe the type and amount of assistance
31 requested. Applications for the use of sales tax revenues
32 shall state the amount of sales tax revenues necessary for
33 completion of the project.

34 2. Each application shall include or have attached to
35 the application, the governmental entity's project plan

1 adopted under section 418.4, subsection 2. When reviewing
2 applications, in addition to the project plan, the board shall
3 consider, at a minimum, all of the following:

4 *a.* Whether the project is designed to mitigate future
5 flooding of property that has sustained significant flood
6 damage and is likely to sustain significant flood damage in the
7 future.

8 *b.* Whether the project plan addresses the impact of flooding
9 both upstream and downstream from the area where the project is
10 to be undertaken.

11 *c.* Whether the area that would benefit from the project's
12 flood mitigation efforts is valuable to the economic viability
13 of the state or is of historic value to the state.

14 *d.* The extent to which the project would utilize local
15 matching funds. The board shall not approve a project unless
16 at least fifty percent of the total cost of the project, less
17 any federal financial assistance for the project, is funded
18 using local matching funds, and unless the project will result
19 in nonpublic investment in the governmental entity's area as
20 defined in section 418.11, subsection 3, of an amount equal to
21 fifty percent of the total cost of the project. For purposes
22 of this paragraph, "*nonpublic investment*" means investment
23 by nonpublic entities consisting of capital investment or
24 infrastructure improvements occurring in anticipation of or as
25 a result of the project during the period of time between July
26 1, 2008, and ten years following completion of the project.

27 *e.* The extent of nonfinancial support committed to the
28 project from public and nonpublic sources.

29 *f.* The net number of new jobs proposed to be created as a
30 direct result of the project and its completion in the area for
31 which the project is designed to mitigate future flooding.

32 *g.* Whether the project plan is consistent with the
33 applicable comprehensive, countywide emergency operations plan
34 in effect.

35 *h.* Whether financial assistance through the flood mitigation

1 program is essential to meet the necessary expenses or serious
2 needs of the governmental entity related to flood mitigation.

3 3. Upon review of the applications, the board, following
4 consultation with the department of economic development, shall
5 approve, defer, or deny the applications. If a project plan
6 is denied, the board shall state the reasons for the denial
7 and the governmental entity may resubmit the application so
8 long as the application is filed on or before January 1, 2016.
9 If a project plan application is approved, the board shall
10 specify whether the governmental entity is approved for the
11 use of sales tax revenues under section 418.12 or whether the
12 governmental entity is approved to receive financial assistance
13 from the flood mitigation fund under section 418.10. If
14 the board approves a project plan application that includes
15 financial assistance from the flood mitigation fund, the board
16 shall negotiate and execute on behalf of the division all
17 necessary agreements to provide such financial assistance.

18 4. The board shall not approve a project plan application
19 that includes financial assistance from the flood mitigation
20 fund or the use of sales tax revenue to pay principal and
21 interest on or to refinance any debt or other obligation
22 existing prior to the approval of the project.

23 5. Upon approval of an application for financial assistance
24 under the program, the board shall notify the treasurer of
25 state regarding the amount of moneys needed to satisfy the
26 award of financial assistance and the terms of the award. The
27 treasurer of state shall notify the division any time moneys
28 are disbursed to a recipient of financial assistance under the
29 program.

30 6. If, following approval of a project application under the
31 program, it is determined that the amount of federal financial
32 assistance under section 418.4, subsection 3, paragraph "b",
33 exceeds the amount of federal financial assistance specified in
34 the application, the board shall reduce the award of financial
35 assistance from the flood mitigation fund or reduce the amount

1 of sales tax revenue to be received for the project by a
2 corresponding amount.

3 Sec. 11. NEW SECTION. 418.10 Flood mitigation fund.

4 1. A flood mitigation fund is created as a separate and
5 distinct fund in the state treasury under the control of the
6 board and consists of moneys appropriated by the general
7 assembly and any other moneys available to and obtained or
8 accepted by the board for placement in the fund. Moneys in the
9 fund shall only be used for the purposes of this section.

10 2. Payments of interest, repayments of moneys loaned
11 pursuant to this chapter, and recaptures of grants, if provided
12 for in the financial assistance agreements, shall be deposited
13 in the fund.

14 3. The moneys in the fund shall be used to provide
15 assistance in the form of grants, loans, and forgivable loans.
16 The use of moneys in the fund for such assistance shall be on
17 a first-come, first-served basis. The board may only provide
18 financial assistance from moneys in the fund.

19 4. Moneys in the fund are not subject to section 8.33.
20 Notwithstanding section 12C.7, subsection 2, interest or
21 earnings on moneys in the fund shall be credited to the fund.

22 5. If any portion of the moneys appropriated for deposit
23 in the fund have not been awarded during the fiscal year for
24 which the appropriation is made, the portion which has not
25 been awarded may be utilized by the board to provide financial
26 assistance under the program in subsequent fiscal years.

27 6. The board may make a multiyear commitment to a
28 governmental entity of up to four million dollars in any one
29 fiscal year.

30 7. Moneys received by a governmental entity from the fund
31 shall be deposited in the governmental entity's flood project
32 fund under section 418.13.

33 8. The board is not required to award financial assistance
34 pursuant to this section unless moneys are appropriated to and
35 available from the fund.

1 9. Following completion of all projects approved to utilize
2 financial assistance from the fund and upon a determination
3 by the board that remaining moneys in the fund are no longer
4 needed for the program, all moneys remaining in the fund or
5 subsequently deposited in the fund shall be credited for
6 deposit in the general fund of the state.

7 Sec. 12. NEW SECTION. 418.11 Sales tax increment
8 calculation.

9 1. The department of revenue shall calculate quarterly the
10 amount of increased sales tax revenues to be deposited in the
11 sales tax increment fund pursuant to section 423.2, subsection
12 11, paragraph "a", subparagraph (2).

13 2. The department of revenue shall calculate the amount of
14 the increase for purposes of subsection 1 as follows:

15 a. Determine the amount of sales tax revenue collected by
16 the department in each applicable area specified in subsection
17 3, during the corresponding quarter in the base year from
18 retail establishments located in such areas.

19 b. Determine the amount of sales tax revenue collected by
20 the department in each applicable area specified in subsection
21 3, during the corresponding quarter in each subsequent calendar
22 year from retail establishments located in such areas.

23 c. Subtract the base year quarterly amount determined in
24 paragraph "a" from the subsequent calendar year quarterly
25 amount determined in paragraph "b".

26 d. The result of the calculation in paragraph "c", to
27 the extent that the amount of revenue in the quarter of the
28 subsequent year exceeds the total amount of revenue in the
29 corresponding quarter of the base year, shall constitute the
30 amount of increased revenues for purposes of subsection 1.

31 3. a. For projects approved for a governmental entity as
32 defined in section 418.1, subsection 4, paragraph "a", the area
33 used to determine the sales tax increment shall include only
34 the unincorporated areas of the county.

35 b. For projects approved for a governmental entity as

1 defined in section 418.1, subsection 4, paragraph "b", the area
2 used to determine the sales tax increment shall include only
3 the incorporated areas of the city.

4 c. For projects approved for a governmental entity as
5 defined in section 418.1, subsection 4, paragraph "c", the
6 area used to determine the sales tax increment shall include
7 the incorporated areas of each city that is participating in
8 the chapter 28E agreement and the unincorporated areas of the
9 county.

10 4. Each governmental entity shall assist the department
11 of revenue in identifying retail establishments in the
12 governmental entity's applicable area that are collecting sales
13 tax. This process shall be ongoing until the governmental
14 entity ceases to utilize sales tax revenue under this chapter.

15 Sec. 13. NEW SECTION. 418.12 Sales tax increment fund.

16 1. A sales tax increment fund is established as a separate
17 and distinct fund in the state treasury under the control of
18 the department of revenue consisting of the amount of the
19 increased state sales and services tax revenues collected by
20 the department of revenue within each applicable area specified
21 in section 418.11, subsection 3, and deposited in the fund
22 pursuant to section 423.2, subsection 11, paragraph "a",
23 subparagraph (2). Moneys in the fund shall only be used for
24 the purposes of this section.

25 2. An account is created within the fund for each
26 governmental entity that has adopted a resolution under section
27 418.4, subsection 3, paragraph "d".

28 3. The department of revenue shall credit to the fund the
29 moneys described in subsection 1 beginning the first day of the
30 quarter following receipt of a resolution under section 418.4,
31 subsection 3, paragraph "d". However, in no case shall a sales
32 tax increment be calculated under section 418.11 or such moneys
33 be credited to the fund under this section prior to January 1,
34 2013.

35 4. a. A governmental entity may request remittance of

1 the moneys in the governmental entity's account within the
2 fund. Such requests shall be made not more than quarterly.
3 Requests for remittance shall be submitted on forms prescribed
4 by the department of revenue. Requests for remittance shall
5 be made for the amount of moneys in the governmental entity's
6 account necessary to pay the governmental entity's costs or
7 obligations related to the project, according to the sales
8 tax revenue funding needs specified in the approved project
9 plan. A governmental entity shall not, however, during any
10 fiscal year receive remittances under this section exceeding
11 fifteen million dollars or the total yearly amount of increased
12 revenue in the governmental entity's applicable area, whichever
13 is less. The total amount of remittances during any fiscal
14 year for all governmental entities approved to use sales tax
15 revenues under this chapter shall not exceed, in the aggregate,
16 thirty million dollars. Remittances from the department of
17 revenue shall be deposited in the governmental entity's flood
18 project fund under section 418.13.

19 *b.* The department of revenue shall adopt rules for the
20 remittance of moneys to governmental entities.

21 5. If the department of revenue determines that the revenue
22 accruing to the fund or accounts within the fund exceeds
23 thirty million dollars or exceeds the amount necessary for
24 the purposes of this chapter if the amount necessary is less
25 than thirty million dollars, then those excess moneys shall
26 be credited by the department of revenue for deposit in the
27 general fund of the state.

28 **Sec. 14. NEW SECTION. 418.13 Flood project fund.**

29 1. Sales tax revenue remitted by the department of revenue
30 to a governmental entity under section 418.12 or financial
31 assistance received by a governmental entity pursuant to
32 section 418.10 shall be deposited in the governmental entity's
33 flood project fund created for purposes of this chapter and
34 shall be used to fund the governmental entity's approved
35 project and to pay principal and interest on bonds issued

1 pursuant to section 418.14, if applicable.

2 2. In addition to the moneys received pursuant to section
3 418.10 or 418.12, a governmental entity may deposit in the
4 flood project fund any other moneys lawfully received by the
5 governmental entity.

6 Sec. 15. NEW SECTION. 418.14 Bond issuance.

7 1. a. A governmental entity receiving sales tax revenues
8 pursuant to this chapter is authorized to issue bonds that are
9 payable from revenues deposited in the governmental entity's
10 flood project fund created pursuant to section 418.13 for the
11 purpose of funding a project in the area from which sales tax
12 revenues will be utilized.

13 b. A governmental entity shall have the authority to pledge
14 irrevocably to the payment of the bonds an amount of revenue
15 derived from the sales tax revenue received by the governmental
16 entity pursuant to section 418.12 for each of the years the
17 bonds remain outstanding.

18 2. a. If a governmental entity elects to authorize the
19 issuance of bonds payable as provided in this section, the
20 governmental entity shall follow the authorization procedures
21 for cities set forth in section 384.83.

22 b. A governmental entity shall have the authority to issue
23 bonds for the purpose of refunding outstanding bonds issued
24 under this section without otherwise complying with the notice
25 and hearing provisions of section 384.83.

26 3. If less than four calendar quarters have elapsed
27 following the submission of the resolution to the department of
28 revenue under section 418.4, subsection 3, paragraph "d", the
29 sales tax collected within the shorter period may be adjusted
30 to project the collections of the designated portion for the
31 full year for the purpose of determining the amount of the
32 bonds which may be issued.

33 4. a. Except as otherwise provided in this section,
34 bonds issued pursuant to this section shall not be subject to
35 the provisions of any other law or charter relating to the

1 authorization, issuance, or sale of bonds.

2 *b.* The bonds may be issued in one or more series and shall
3 comply with all of the following:

4 (1) The bonds shall bear the date of issuance.

5 (2) The bonds shall specify whether they are payable on
6 demand or the time of maturity.

7 (3) The bonds shall bear interest at a rate not exceeding
8 that permitted by chapter 74A.

9 (4) The bonds shall be in a denomination or denominations,
10 be in the form, have the rank or priority, be executed in
11 the manner, be payable in the medium of payment, at the
12 place or places, be subject to the terms of redemption, with
13 or without premium, be secured in the manner, and have the
14 other characteristics, as may be provided by the resolution
15 authorizing their issuance.

16 *c.* The bonds may be sold at public or private sale at a
17 price as may be determined by the governmental entity.

18 5. *a.* Bonds, notes, or other obligations issued by a
19 governmental entity for purposes of financing a project under
20 this chapter are not an obligation of this state. Except as
21 provided in paragraph "b", bonds, notes, or other obligations
22 issued by a governmental entity for purposes of financing
23 a project under this chapter are not an obligation of any
24 political subdivision of this state other than the governmental
25 entity. A governmental entity shall not pledge the credit or
26 taxing power of this state. Except as provided in paragraph
27 "b", a governmental entity shall not pledge the credit or taxing
28 power of any political subdivision of this state other than the
29 governmental entity or make its debts payable out of any of the
30 moneys except those in the governmental entity's flood project
31 fund.

32 *b.* If the moneys in the governmental entity's flood project
33 fund are insufficient to pay the governmental entity's costs
34 related to bonds, notes, or other obligations issued under
35 this chapter, the amounts necessary to pay such costs shall

1 be transferred for deposit in the governmental entity's flood
2 project fund from the debt service fund of the county or the
3 debt service fund of the city or county for a governmental
4 entity as defined in section 418.1, subsection 4, paragraph
5 "c", as provided in the chapter 28E agreement. The chapter
6 28E agreement for a governmental entity as defined in
7 section 418.1, subsection 4, paragraph "c", shall specify the
8 participating city or county responsible for any payment from a
9 debt service fund required under this paragraph.

10 Sec. 16. NEW SECTION. 418.15 Durational limitation on use
11 of revenues — property disposition.

12 1. A governmental entity shall not utilize sales tax revenue
13 under this chapter after twenty-five years from the date the
14 governmental entity's project was approved by the board.

15 2. If the governmental entity ceases to need the sales
16 tax revenues prior to the expiration of the limitation under
17 subsection 1, the governmental entity shall notify the director
18 of revenue.

19 3. Upon the receipt of a notification pursuant to subsection
20 2, or the expiration of the limitation under subsection 1, the
21 department of revenue shall cease to credit revenues to the
22 governmental entity's account in the sales tax increment fund.

23 4. All property and improvements acquired by a governmental
24 entity as defined in section 418.1, subsection 4, paragraph
25 "c", relating to a project shall be transferred to the county
26 or city designated in the chapter 28E agreement to receive
27 such property and improvements. The city or county to which
28 such property or improvements are transferred shall, unless
29 otherwise provided in the chapter 28E agreement, be solely
30 responsible for the ongoing maintenance and support of such
31 property and improvements.

32 Sec. 17. Section 423.2, subsection 11, Code 2011, is amended
33 to read as follows:

34 11. a. (1) All revenues arising under the operation of the
35 provisions of this section shall be deposited into the general

1 fund of the state.

2 (2) Subsequent to the deposit into the general fund of
3 the state, the director shall credit an amount equal to
4 six cents of every dollar of the amount of the increase
5 in sales subject to the tax imposed under this section and
6 made in the applicable area of a governmental entity that is
7 approved to use sales tax revenues under chapter 418 into an
8 account created for that governmental entity in the sales
9 tax increment fund created in section 418.12. The director
10 shall credit the moneys beginning the first day of the quarter
11 following adoption of the resolution pursuant to section 418.4,
12 subsection 3, paragraph "d".

13 *b.* Subsequent to the deposit into the general fund of the
14 state ~~and after the transfer of such~~ pursuant to paragraph "a",
15 the department shall do the following in the order prescribed:

16 (1) Transfer the revenues collected under chapter 423B, ~~the~~
17 ~~department shall transfer.~~

18 (2) Transfer one-sixth of such the remaining revenues to the
19 secure an advanced vision for education fund created in section
20 423F.2. This paragraph subparagraph (2) is repealed December
21 31, 2029.

22 (3) Credit that portion of the sales tax receipts described
23 in paragraph "a", subparagraph (2).

24 Sec. 18. EFFECTIVE UPON ENACTMENT. This Act, being deemed
25 of immediate importance, takes effect upon enactment.

26 EXPLANATION

27 This bill relates to flood mitigation by establishing a
28 flood mitigation program, establishing a flood mitigation
29 board, authorizing the use of certain sales tax revenue and
30 other financial assistance for certain flood-related projects,
31 establishing a flood mitigation fund, and authorizing the
32 issuance of bonds for certain flood mitigation projects.

33 The bill authorizes certain governmental entities to
34 undertake flood-related projects. The bill defines "project"
35 to mean the construction and reconstruction of levees,

1 embankments, impounding reservoirs, or conduits that are
2 necessary for the protection of property from the effects
3 of floodwaters and may include the deepening, widening,
4 alteration, change, diversion, or other improvement of
5 watercourses if necessary for the protection of such property
6 from the effects of floodwaters. The bill requires a project
7 to be preceded by adoption of a project plan that includes a
8 detailed description of the project, clearly states the cost of
9 the project and the amount of debt to be incurred for purposes
10 of funding the project, and includes a description of all
11 funding sources for the project. The project plan must also
12 include information related to the approval criteria used by
13 the flood mitigation board.

14 The bill prohibits a governmental entity from undertaking
15 a project unless bidding for the project is complete, the
16 project has been approved to receive certain federal financial
17 assistance, the project plan has been approved by the flood
18 mitigation board, and the governmental entity has adopted and
19 filed with the department of revenue a resolution authorizing
20 the use of sales tax increment revenue, if sales tax increment
21 revenue was designated as a funding source for the project.
22 The bill authorizes a governmental entity to contract with a
23 council of governments to perform any duty or power authorized
24 in the bill or for the completion of the project.

25 The bill provides that a governmental entity may not seek
26 approval from the board for a project if the governmental
27 entity previously had a project approved under the flood
28 mitigation program or was part of a governmental entity that
29 previously had a project approved by the board under the flood
30 mitigation program.

31 The bill provides that a project eligible for state
32 financial assistance under Code section 29C.6(17) is ineligible
33 for approval by the board under the flood mitigation program.

34 The bill requires a governmental entity that has a project
35 approved by the flood mitigation board to prepare and submit an

1 annual report on or before December 15 to the board detailing
2 the status and progress of the project.

3 The bill establishes a flood mitigation board within the
4 homeland security and emergency management division of the
5 department of public defense consisting of nine voting members
6 and four ex officio, nonvoting legislative members. The voting
7 membership of the board includes four members of the general
8 public having demonstrable experience or expertise in the field
9 of natural disaster or flood mitigation, the director of the
10 department of natural resources or the director's designee,
11 the secretary of agriculture or the secretary's designee,
12 the treasurer of state or the treasurer's designee, the
13 administrator of the homeland security and emergency management
14 division or the administrator's designee, and the executive
15 director of the Iowa finance authority or the executive
16 director's designee. Appointment of the general public members
17 shall be made by the governor, shall be subject to confirmation
18 by the senate, and shall be for three-year staggered terms.
19 The members of the board are entitled to receive reimbursement
20 for actual expenses incurred while engaged in the performance
21 of official duties.

22 The bill requires the board to establish and administer a
23 flood mitigation program to assist governmental entities in
24 undertaking approved projects. The flood mitigation program
25 includes projects approved by the board to utilize either
26 financial assistance from the flood mitigation fund created
27 in the bill or sales tax increment revenues remitted to the
28 governmental entity. The bill prohibits a project from being
29 approved by the board to utilize both financial assistance from
30 the flood mitigation fund and sales tax increment revenues for
31 the same project. The bill authorizes the board to consult
32 with the Iowa flood center to assist the board in administering
33 the flood mitigation program.

34 Governmental subdivisions must submit project applications
35 to the flood mitigation board for approval. The board is

1 prohibited from approving applications submitted after
2 January 1, 2016. The application shall specify whether the
3 governmental entity is requesting financial assistance from
4 the flood mitigation fund or approval for the use of sales tax
5 increment revenues. Applications for financial assistance
6 from the flood mitigation fund are required to describe the
7 type and amount of assistance requested. Applications for the
8 use of sales tax increment revenues shall state the amount of
9 such revenues necessary for completion of the project. Each
10 application shall include, or have attached to the application,
11 the governmental entity's project plan.

12 The bill requires the board, when reviewing applications,
13 in addition to the governmental entity's project plan, to
14 consider, at a minimum, whether the project is designed
15 to mitigate future flooding of property that has sustained
16 significant flood damage and is likely to sustain significant
17 flood damage in the future, whether the project addresses
18 the impact of flooding both upstream and downstream from
19 the area where the project is to be undertaken, whether the
20 area that would benefit from the project's flood mitigation
21 efforts is valuable to the economic viability of the state or
22 is of historic value to the state, the extent to which the
23 project would utilize local matching funds including whether
24 the project meets specific local matching funds requirements,
25 whether the project will result in specified amounts of
26 nonpublic investment, as defined in the bill, the extent of
27 nonfinancial support from public and nonpublic sources, the
28 net number of new jobs proposed to be created as a direct
29 result of the project and its completion in the area for which
30 the project is designed to mitigate future flooding, whether
31 the project is consistent with the applicable comprehensive,
32 countywide emergency operations plan, and whether financial
33 assistance through the flood mitigation program is essential
34 to meet the necessary expenses or serious needs of the
35 governmental entity related to flood mitigation.

1 Upon review of the applications, the flood mitigation
2 board, following consultation with the department of economic
3 development, shall approve, defer, or deny the applications.
4 If a project plan is denied, the board shall state the reasons
5 for the denial and the governmental entity may resubmit the
6 application so long as the application is filed on or before
7 January 1, 2016.

8 If a project plan application is approved, the board shall
9 specify whether the governmental entity is approved for the use
10 of sales tax increment revenues or whether the governmental
11 entity is approved to receive financial assistance from the
12 flood mitigation fund. If the board approves a project plan
13 application that includes financial assistance from the flood
14 mitigation fund, the board shall negotiate and execute on
15 behalf of the division all necessary agreements to provide such
16 financial assistance. The bill provides for the reduction of
17 an award of financial assistance from the flood mitigation fund
18 or a reduction in the amount of sales tax increment revenues
19 to be received for the project if federal financial assistance
20 exceeds the amount stated in the project plan application.

21 The bill requires the flood mitigation board to prepare
22 and submit an annual report to the governor and the general
23 assembly on or before January 15 containing certain information
24 relating to the projects approved by the board, certain
25 information relating to the governmental entities undertaking
26 each project, and any recommendations for legislative action to
27 modify the provisions of new Code chapter 418.

28 The bill establishes a flood mitigation fund as a separate
29 and distinct fund in the state treasury under the control of
30 the board. Moneys in the flood mitigation fund are used to
31 provide assistance in the form of grants, loans, and forgivable
32 loans. Assistance provided from the fund shall be on a
33 first-come, first-served basis. The board may make a multiyear
34 commitment to a governmental entity of up to \$4 million in
35 any one fiscal year. Following completion of all projects

1 approved to utilize financial assistance from the fund and upon
2 a determination by the board that remaining moneys in the fund
3 are no longer needed for the program, all moneys remaining
4 in the fund or subsequently deposited in the fund shall be
5 credited for deposit in the general fund of the state.

6 The bill authorizes, upon approval of the flood mitigation
7 board, governmental entities to use increased sales tax
8 revenue collected within a specified area to fund projects.
9 For a governmental entity that is a county, the area used
10 to determine the sales tax increment shall include only the
11 unincorporated areas of the county. For a governmental entity
12 that is a city, the area used to determine the sales tax
13 increment shall include only the incorporated areas of the
14 city. For a governmental entity that is operated under a Code
15 chapter 28E agreement, the area used to determine the sales tax
16 increment shall include the incorporated areas of each city
17 that is participating in the Code chapter 28E agreement and the
18 unincorporated areas of the participating county.

19 To determine the amount of the increase in sales tax revenue,
20 the department of revenue calculates the amount of sales tax
21 revenues collected in a specified quarter in the base year and
22 the amount of tax revenues collected during the corresponding
23 quarter in subsequent years. The department of revenue
24 then subtracts the base year amount from the amounts in the
25 subsequent years to arrive at the amount of the increase.

26 The bill creates a sales tax increment fund within the
27 department of revenue and an account in the fund for each
28 governmental entity approved by the flood mitigation board to
29 use such revenues for a project. The department credits the
30 amount of the governmental entity's increased revenues to the
31 governmental entity's account. However, the bill specifies
32 that in no case shall a sales tax increment be credited to the
33 fund prior to January 1, 2013.

34 The bill allows each governmental entity to request
35 remittance of the moneys in the governmental entity's account

1 within the fund. Such requests shall be made not more than
2 quarterly. Requests for remittance shall be made for the
3 amount of moneys in the governmental entity's account necessary
4 to pay the governmental entity's costs or obligations related
5 to the project, according to the sales tax revenue funding
6 needs specified in the approved project plan. A governmental
7 entity shall not, however, receive remittances during any
8 fiscal year exceeding \$15 million or the total yearly amount
9 of increased revenue in the governmental entity's applicable
10 area, whichever is less. Remittances from the department
11 of revenue are deposited in the governmental entity's flood
12 project fund. In addition, the total amount of remittances
13 during any fiscal year for all governmental entities approved
14 to use sales tax increment revenues under this chapter shall
15 not exceed, in the aggregate, \$30 million. If the department
16 of revenue determines that the revenue accruing to the sales
17 tax increment fund or accounts within the fund exceed \$30
18 million or the amount necessary for the purposes of new Code
19 chapter 418 if less than \$30 million, then those excess moneys
20 shall be credited by the department of revenue for deposit in
21 the general fund of the state.

22 The bill provides that moneys deposited in a governmental
23 entity's flood project fund shall be used to fund projects and
24 to pay principal and interest on bonds issued under the bill,
25 if applicable. The bill also provides that in addition to
26 the sales tax revenues remitted by the department of revenue
27 and financial assistance from the flood mitigation fund, a
28 governmental entity may deposit in the flood project fund any
29 other moneys lawfully received by the governmental entity.

30 The bill authorizes the issuance of bonds by a governmental
31 entity that are payable from moneys deposited in the
32 governmental entity's flood project fund if the governmental
33 entity is receiving sales tax revenue under the bill. In
34 issuing the bonds, the governmental entity must comply with
35 the revenue bond authorization procedures applicable to cities

1 pursuant to Code section 384.83. The bill provides that bonds,
2 notes, or other obligations issued by a governmental entity are
3 not an obligation of the state. The bill also provides that,
4 except as specifically provided in the bill, bonds, notes, or
5 other obligations issued by a governmental entity are not an
6 obligation of any political subdivision of the state except the
7 governmental entity. The bill prohibits a governmental entity
8 from pledging the credit or taxing power of the state. Except
9 as specifically provided in the bill, a governmental entity
10 is prohibited from pledging the credit or taxing power of a
11 political subdivision of the state.

12 If the moneys in the governmental entity's flood project
13 fund are insufficient to pay the governmental entity's costs
14 related to bonds, notes, or other obligations issued under
15 the bill, the amounts necessary to pay such costs shall be
16 transferred for deposit in the governmental entity's flood
17 project fund from the debt service fund of the county or the
18 debt service fund of the city or county for a governmental
19 entity operating under a Code chapter 28E agreement, as
20 provided in the Code chapter 28E agreement.

21 The bill provides that a governmental entity shall not
22 utilize sales tax increment revenue under the bill after
23 25 years from the date the governmental entity's project
24 was approved by the board. The bill provides that if the
25 governmental entity ceases to need the sales tax increment
26 revenues prior to the expiration of such limitation, the
27 governmental entity shall notify the director of revenue.

28 Under the bill, all property and improvements acquired by a
29 governmental entity operated under a Code chapter 28E agreement
30 relating to a project shall be transferred to the county or
31 city designated in the Code chapter 28E agreement to receive
32 such property and improvements. The city or county to which
33 such property or improvements are transferred shall, unless
34 otherwise provided in the Code chapter 28E agreement, be solely
35 responsible for the ongoing maintenance and support of such

1 property and improvements.

2 The bill takes effect upon enactment.